

# EXHIBIT B

1	UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS	1	3
2		1	I N D E X
3	MAURA O'NEILL, as Administrator of the Estate of Madelyn E. Linsenmeir	2	WITNESS: EXAMINATION PAGE
4		3	-----
5	V. No. 20-30036-MGM	4	JUSTIN BERK Direct by Mr. Day 6
6	CITY OF SPRINGFIELD, MOISES ZANAZANIAN, REMINGTON MCNABB,	5	
7	SHEILA RODRIGUEZ, HAMPDEN COUNTY SHERIFF'S DEPARTMENT, EILEEN BARRETT and MAUREEN COUTURE	6	
8		7	EXHIBITS DESCRIPTION PAGE
9		8	Deposition 1 Berk Expert Report 49
10	DEPOSITION OF: JUSTIN BERK, M.D., taken before Sarah L. Mubarek, Notary Public, pursuant to Rule 30 of the Federal Rules of Civil Procedure, via videoconference, on March 29, 2024, commencing at 8:03 a.m.	9	Deposition 2 RI DOC Alcohol Withdrawal 104 Protocol
11		10	Deposition 3 Linsenmeir Intake Health 164 History
12		11	Deposition 4 WCC Alcohol Withdrawal 181 Protocol
13		12	(Exhibits retained by Mr. Day.)
14	APPEARANCES: (Please see page 2)	13	
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22	Sarah L. Mubarek, RPR Philbin & Associates 75 Market Place, Springfield, MA 01103	21	
23		22	
24		23	
		24	
1	REMOTE APPEARANCES:	2	4
2	<u>For the Plaintiff:</u> American Civil Liberties Union Foundation of Massachusetts, Once Center Plaza, Suite 850, Boston, Massachusetts 02108.	3	S T I P U L A T I O N S
3	BY: DANIEL L. MCFADDEN, ESQUIRE	4	
4	Goulston & Storrs, P.C., 400 Atlantic Avenue, Boston, Massachusetts 02110.	5	It is agreed by and between the parties that
5	BY: JULIUS A. HALSTEAD, ESQUIRE	6	all objections, except objections as to the form of
6		7	the question, are reserved to be raised at the time
7	<u>For the Defendants:</u> Reardon, Joyce & Akerson, P.C., 4 Lancaster Terrace, Worcester, Massachusetts 01606, for Moses Zanazanian.	8	of trial for the first time.
8	BY: JOHN K. VIGLIOTTI, ESQUIRE	9	
9	Egan, Flanagan & Cohen, P.C., 67 Market Street, Springfield, Massachusetts 01102, for Hampden County Sheriff's Department.	10	It is further agreed by and between the
10	BY: THOMAS E. DAY, ESQUIRE	11	parties that all motions to strike unresponsive
11	Also Present: Maura O'Neill and Noah Berthlaume	12	answers are also reserved to be raised at the time
12		13	of trial for the first time.
13		14	
14		15	It is further agreed that the deponent will
15		16	reserve the right to read and sign the deposition
16		17	and the sealing of said deposition will be waived.
17		18	
18		19	It is further agreed by and between the
19		20	parties that notification to all parties of the
20		21	receipt of the original deposition transcript is
21		22	also hereby waived.
22		23	*****
23		24	

<p>241</p> <p>1 <b>report.</b></p> <p>2 Q. And you're not rendering an opinion that 3 any of the treatment with regard to opioid 4 withdrawal at the WCC at the time that Madelyn 5 Linsenmeir was there was improper?</p> <p>6 <b>A. I was not asked to provide an opinion on 7 that.</b></p> <p>8 Q. Okay. And you're not rendering an 9 opinion that outside of the opioid policies, 10 procedures and protocols, that there were other 11 substance abuse protocols that should have been in 12 place that were not, is that correct?</p> <p>13 <b>A. I think that that's right. I wasn't 14 asked to render an opinion on that, have not 15 rendered an opinion on that in the expert report.</b></p> <p>16 MR. DAY: If we can go off the record 17 for just a couple of minutes, I think I can wrap up 18 fairly quickly. My goal is to get you out of here 19 by 5:00, Doctor.</p> <p>20 MR. MCFADDEN: All right. Why don't 21 we come back in five.</p> <p>22 MR. DAY: Sounds good.</p> <p>23 (Brief recess is taken.)</p> <p>24 Q. Again, I apologize. I'm going to jump</p>	<p>243</p> <p>1 Q. And when you say initiate treatment for 2 infective endocarditis, if you have a patient with 3 infective endocarditis, are you typically going to 4 be the doctor that handles the treatment of that 5 patient from beginning to end?</p> <p>6 <b>A. If I am taking care of a patient with 7 infective endocarditis in a hospital setting, I 8 would be, as the hospitalist, the person arranging 9 the treatment, starting the treatment, taking 10 recommendations from the infectious disease 11 specialist. I would consult infectious diseases, 12 but yes, would start treatment.</b></p> <p>13 Q. In your career, how many patients have 14 you provided treatment for with infective 15 endocarditis?</p> <p>16 <b>A. I think it's a little tough to say, but 17 I'd say over the past eight years, probably between 18 10 and 20 patients.</b></p> <p>19 Q. And in any of those situations, were you 20 the only doctor providing treatment to those 21 patients for their infective endocarditis?</p> <p>22 <b>A. No.</b></p> <p>23 Q. So fair to say in every one of those 24 situations, you had a specialist in infective</p>
<p>242</p> <p>1 around a little bit. In your report on page 12, you 2 said, "As infective endocarditis progresses, 3 patients will experience elevated heart rates and 4 become febrile," correct?</p> <p>5 <b>A. That's correct.</b></p> <p>6 Q. And are you an expert with regard to the 7 treatment of endocarditis?</p> <p>8 MR. MCFADDEN: Objection.</p> <p>9 <b>A. I have treated endocarditis. I have 10 knowledge of infective endocarditis. I would 11 consider myself a medical expert, but not an 12 infectious disease expert certainly, no.</b></p> <p>13 Q. But you would consider yourself a medical 14 expert with regard to the disease infective 15 endocarditis?</p> <p>16 <b>A. I think part of my medical training and 17 clinical practice is being able to identify and even 18 initiate treatment of infective endocarditis.</b></p> <p>19 Q. As an internist?</p> <p>20 <b>A. That's right.</b></p> <p>21 Q. And you're not an infectious disease 22 specialist, correct?</p> <p>23 <b>A. I am not an infectious disease 24 specialist.</b></p>	<p>244</p> <p>1 endocarditis who was also providing treatment?</p> <p>2 <b>A. I would say specialists in infectious 3 disease, yes. I always had a consulting specialist 4 in infectious disease.</b></p> <p>5 Q. Is it fair to say you would never be the 6 sole doctor treating somebody with infective 7 endocarditis? You would always bring in a 8 specialist?</p> <p>9 <b>A. I think that is a fair assessment to 10 make, yes.</b></p> <p>11 Q. And you state in your report, "Based on 12 my experiences, it is my opinion that 13 Ms. Linsenmeir's vitals would have continued to 14 deteriorate over the course of her time at the WCC." 15 Do you see that?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And what experience is that based on?</p> <p>18 <b>A. Knowledge of the progression of infective 19 endocarditis, both through clinical experience, but 20 also knowledge of the progression of diseases like 21 infective endocarditis.</b></p> <p>22 Q. And what particular vitals would have 23 deteriorated?</p> <p>24 <b>A. I think she would most likely be febrile</b></p>

<p style="text-align: right;">245</p> <p><b>1 and tachycardic or have an elevated heart rate.</b></p> <p>2 Q. Did you see any evidence in the records</p> <p>3 that she was febrile while she was at the WCC?</p> <p>4 <b>A. Again, I think there was a lack of</b></p> <p>5 <b>evidence. There was no temperature taken. There</b></p> <p>6 <b>was no heart rate taken. I think at the time that</b></p> <p>7 <b>EMS was called, she was diaphoretic and febrile, if</b></p> <p>8 <b>I remember right. But there was no objective</b></p> <p>9 <b>evidence collected regarding her vital signs during</b></p> <p>10 <b>the four days she was there.</b></p> <p>11 Q. Did you review the medical records of the</p> <p>12 EMS providers in drafting your opinion, and in</p> <p>13 particular this opinion in the final paragraph of</p> <p>14 page 12?</p> <p>15 <b>A. I feel confident that opinion in the last</b></p> <p>16 <b>paragraph was not -- did not need to be based on the</b></p> <p>17 <b>EMS reports, and that did not inform my opinion that</b></p> <p>18 <b>she had infective endocarditis, and I think would</b></p> <p>19 <b>have had worsening symptoms had anyone taken her</b></p> <p>20 <b>vitals. She would have had worsening vital signs if</b></p> <p>21 <b>anyone had taken her vitals.</b></p> <p>22 Q. But you didn't review the EMS records in</p> <p>23 arriving at that opinion?</p> <p>24 MR. MCFADDEN: Objection.</p>	<p style="text-align: right;">247</p> <p>1 Q. Okay. And so is that what your medical</p> <p>2 opinion actually is?</p> <p>3 <b>A. Yes, as I put in the report.</b></p> <p>4 Q. But what you just said, Doctor, is in a</p> <p>5 significant way different from that final sentence</p> <p>6 of your report. The final sentence of your report</p> <p>7 is specific to Madelyn Linsenmeir, correct? It's</p> <p>8 referring to saving her life, right?</p> <p>9 <b>A. That's correct.</b></p> <p>10 Q. And what you just said, if I'm</p> <p>11 understanding you correctly, is that if you identify</p> <p>12 the symptoms of infective endocarditis and initiate</p> <p>13 treatment earlier, the chances of survival are far</p> <p>14 greater, correct?</p> <p>15 <b>A. That's right, and that would apply to</b></p> <p>16 <b>her.</b></p> <p>17 Q. That's a general statement that's not</p> <p>18 specific to Madelyn Linsenmeir, correct?</p> <p>19 MR. MCFADDEN: Objection.</p> <p>20 <b>A. I would say it applies to her. I would</b></p> <p>21 <b>apply it to her, as I did in my report.</b></p> <p>22 Q. So how much earlier?</p> <p>23 <b>A. I think that is a tough estimate to give,</b></p> <p>24 <b>and I would not want to guess.</b></p>
<p style="text-align: right;">246</p> <p>1 <b>A. The EMS records were not directly</b></p> <p>2 <b>informing that opinion.</b></p> <p>3 Q. But my question was a little bit</p> <p>4 different than that, Doctor. My question is you</p> <p>5 didn't review -- did you review the EMS records in</p> <p>6 forming that opinion?</p> <p>7 <b>A. Whatever I reviewed is in Exhibit B. If</b></p> <p>8 <b>it's not listed in Exhibit B, then I did not review</b></p> <p>9 <b>it.</b></p> <p>10 Q. Okay. In the last sentence you state,</p> <p>11 "As a result, had she received regular monitoring,</p> <p>12 her underlying pathology of infective endocarditis</p> <p>13 could have been identified in time to save her</p> <p>14 life." Are you providing an expert opinion there or</p> <p>15 is that just conjecture on your part?</p> <p>16 <b>A. I would say I have a medical expert</b></p> <p>17 <b>opinion that an individual with a severe infection</b></p> <p>18 <b>like infective endocarditis is going to have</b></p> <p>19 <b>clinical deterioration, as she did up until her</b></p> <p>20 <b>death, and if you can identify it and treat it</b></p> <p>21 <b>earlier, the likelihood of survival is far greater</b></p> <p>22 <b>than without treatment, and that's based on my</b></p> <p>23 <b>medical expertise. So I think that would be a</b></p> <p>24 <b>medical opinion.</b></p>	<p style="text-align: right;">248</p> <p>1 Q. And is it fair to say that you're not</p> <p>2 qualified to provide an opinion as to how much</p> <p>3 earlier would have saved Madelyn Linsenmeir's life?</p> <p>4 <b>A. I would say it is within my scope of</b></p> <p>5 <b>expertise to say if you treat infective endocarditis</b></p> <p>6 <b>earlier, the mortality rate is better. I would teach</b></p> <p>7 <b>that to medical students on rounds and feel</b></p> <p>8 <b>comfortable with that statement. To say at what day</b></p> <p>9 <b>does the mortality drop from a certain level to</b></p> <p>10 <b>another is outside of my scope of expertise.</b></p> <p>11 Q. Okay. That is what you're saying in that</p> <p>12 final sentence though, right? You're not saying --</p> <p>13 I mean, it seems like you're saying two very</p> <p>14 different things. One of the things you're saying</p> <p>15 is if you catch the infection earlier, the chances</p> <p>16 of survival are greater. I don't think anybody</p> <p>17 would disagree with you on that. But that's what</p> <p>18 just said to me, right?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. But then in this final sentence,</p> <p>21 you're saying something very different. You're</p> <p>22 talking about Madelyn Linsenmeir's situation</p> <p>23 specifically, and you're saying that if she had</p> <p>24 received regular monitoring of her alcohol</p>

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1 withdrawal, her infective endocarditis would have  
 2 been identified in time to save her life, right?  
 3 That's what you're saying there?  
 4 **A. I'm saying it could have, certainly. The**  
 5 **matter of days I feel confident saying can be**  
 6 **significant. If a person is going to the hospital**  
 7 **when they're in critical illness, they're not going**  
 8 **to be doing as well as if they go to the hospital**  
 9 **before they're in critical illness. I feel**  
 10 **comfortable saying that. While specific hours might**  
 11 **be tough, certainly I feel comfortable and it's**  
 12 **within the scope of my expertise to say if someone**  
 13 **was treated days before, they would do better and**  
 14 **have a higher likelihood of survival.**

15 **Q.** Okay. So is what you're trying to say  
 16 there in this last paragraph, that if Madelyn had  
 17 been -- If her infective endocarditis had been  
 18 identified earlier, she would have had a higher  
 19 likelihood of survival?

20 **A. That's right. A substantially higher**  
 21 **likelihood of survival, that's right.**

22 **Q.** Okay. But you're not saying that if  
 23 Madelyn's infective endocarditis were identified  
 24 sooner in her stay at the WCC, she would have more

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1 **report. "As a result, had she had regular**  
 2 **monitoring, her underlying pathology of infective**  
 3 **endocarditis could have been identified in time to**  
 4 **save her life."**

5 **Q.** When you say, "Could have been identified  
 6 in time to save her life," that includes the  
 7 possibility that it might not have been identified  
 8 in time to save her life as well, correct?

9 **MR. MCFADDEN:** Objection.

10 **A. I cannot say that --**

11 **Q.** You're not saying it definitely would  
 12 have, right?

13 **A. That's right. I wouldn't be able to**  
 14 **speak in definite terms.**

15 **Q.** Okay. So then, and this is very  
 16 important for an expert opinion, are you providing a  
 17 likelihood there? Are you saying that -- when you  
 18 say, "Could have been Identified in time to save her  
 19 life," are you saying that it is more likely than  
 20 not that she would have survived if she had gotten  
 21 regular monitoring of her alcohol withdrawal  
 22 symptoms?

23 **A. I think it's tough to say. I think I**  
 24 **can't say with extreme confidence. However, what I**

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1 likely than not survived? That's not what you're  
 2 saying, right?

3 **MR. MCFADDEN:** Objection.

4 **A. I would not be able to give the exact**  
 5 **mortality benefits or exact morality rates if it was**  
 6 **one day or two days prior. If she was identified as**  
 7 **having a significant illness before she was**  
 8 **critically ill, I can say more likely than not, her**  
 9 **treatment would be successful, and that there is a**  
 10 **good chance that she would have a higher likelihood**  
 11 **of mortality.**

12 **We certainly cannot predict who lives or**  
 13 **dies in medicine with extreme certainty, but it is**  
 14 **very clear that earlier treatment of infective**  
 15 **endocarditis has improved outcomes, and that does**  
 16 **not require an infectious disease fellowship to**  
 17 **understand.**

18 **Q.** And I don't have any problem with that.  
 19 However, what I have a problem with is that is  
 20 definitely not what you're saying in this last  
 21 paragraph.

22 **MR. MCFADDEN:** Objection.

23 **Q.** Do you agree with me?

24 **A. I would stand by what I say in the**

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1 **can say and feel strongly, is that before she was**  
 2 **critically ill, if she had access to treatment for**  
 3 **infective endocarditis, the survival is much better.**  
 4 **More detail probably does require a subspecialist**  
 5 **expert, but I feel comfortable with what I've said**  
 6 **in the report.**

7 **Q.** Okay. But you don't have -- and what are  
 8 you basing what you've said in that last paragraph  
 9 of the report? Are you basing that on the 10 to 20  
 10 patients that you've treated with infective  
 11 endocarditis?

12 **MR. MCFADDEN:** Objection.

13 **A. I would base it not only on my clinical**  
 14 **experience, but in medicine, a large part of the**  
 15 **lifelong training is the study of medicine, and**  
 16 **education and training, and reading about disease**  
 17 **processes and discussing them in academic settings.**  
 18 **There are plenty of rare diseases that people don't**  
 19 **see often, but have an understanding of because, as**  
 20 **physicians, we're doing a lot of training and**  
 21 **education and things.**

22 **So I've seen 10 to 20 infective**  
 23 **endocarditis, but have talked about infective**  
 24 **endocarditis thousands of times and shared cases**

<p>253</p> <p>1 with others. So I feel comfortable about my basic 2 knowledge of infective endocarditis.</p> <p>3 Q. Okay. And do you base your opinion in 4 the final paragraph -- do you have any authority, 5 such as you have in other parts of your opinion, to 6 support that opinion? Do you have any studies, any 7 journal articles, anything like that?</p> <p>8 A. I do not in my report or in my deposition 9 now have citations or references for that statement.</p> <p>10 Q. Okay. Do you know how long Madelyn had 11 been suffering from infective endocarditis when she 12 arrived, as of the time that she arrived at the WCC?</p> <p>13 A. Based on my review of the medical 14 records, I believe she had infective endocarditis 15 the day she arrived at the WCC.</p> <p>16 Q. That's based on what medical records?</p> <p>17 A. One of the complaints of knee pain, and 18 then ultimately having septic emboli to the knee 19 from infective endocarditis is a good sign that that 20 knee pain was not from a baseball bat, but I think a 21 septic emboli from infective endocarditis.</p> <p>22 Q. Are there any other medical records that 23 you're basing that opinion?</p> <p>24 A. Truthfully, the major part of my opinion</p>	<p>255</p> <p>1 Q. And you also admit that you are not an 2 expert with regard to infective endocarditis, right?</p> <p>3 MR. MCFADDEN: Objection.</p> <p>4 A. I would say that I have some level of 5 expertise, far more than the lay person, in 6 infective endocarditis, but I am not an infectious 7 disease subspecialist.</p> <p>8 Q. Okay. And you're also not a lawyer, but 9 you understand that the statement at the end of your 10 report is incredibly significant to this case, 11 correct? You can understand that, right?</p> <p>12 A. And I stand by that, yes.</p> <p>13 Q. So in that final paragraph, you're making 14 a giant leap from your opinion that the monitoring 15 was not appropriate, to if the monitoring that I 16 would have liked to have seen had been done, Madelyn 17 would have -- Madelyn's infective endocarditis would 18 have been discovered in time to provide her with the 19 treatment that would have saved her life. I mean, 20 that's the leap you're making, correct?</p> <p>21 MR. MCFADDEN: Objection.</p> <p>22 A. I would say that if the standard of care 23 for continued monitoring for alcohol withdrawal were 24 aligned to, I'm putting that context into it, it</p>
<p>254</p> <p>1 was how the alcohol withdrawal monitoring could have 2 helped identify the infective endocarditis. I 3 wasn't asked specifically as an infective 4 endocarditis expert. I would say that's where I -- 5 that's the information that informed that opinion. 6 I don't know that there's more.</p> <p>7 MR. MCFADDEN: Tom, sorry. Can I 8 interject? I think there might have been a 9 misunderstanding on one of the questions. Were you 10 asking how long before Madelyn got to the WCC she 11 had started to have endocarditis?</p> <p>12 MR. DAY: Yeah, I'm going to follow 13 up on that, Dan.</p> <p>14 MR. MCFADDEN: I just had that 15 question. I'm sorry.</p> <p>16 MR. DAY: I appreciate that. I'm 17 going to follow up on that.</p> <p>18 Q. Doctor, I understand that you've provided 19 an opinion that Madelyn's alcohol withdrawal should 20 have been regularly monitored, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And you believe that's within your area 23 of expertise, right?</p> <p>24 A. That's correct.</p>	<p>256</p> <p>1 would have given an opportunity to identify a person 2 with a severe illness, who ultimately succumbed and 3 died to that severe illness, and could have not died 4 due to that illness had she had appropriate 5 monitoring.</p> <p>6 Q. So it's a possibility that if she had had 7 appropriate monitoring, they might have discovered 8 the infective endocarditis, and it might have been 9 early enough that treatment could have been 10 instituted, and she would not have died from the 11 infective endocarditis. That's what you're saying, 12 right? It's a possibility?</p> <p>13 MR. MCFADDEN: Objection.</p> <p>14 A. I would say it's more likely than not 15 that someone's who's about to die from infective 16 endocarditis is going to demonstrate signs or 17 symptoms of infective endocarditis, which can 18 include fever, can include diaphoresis, can include 19 tachycardia. All of these things would almost 20 certainly draw a red flag if she was receiving 21 continued monitoring for underlying alcohol 22 withdrawal.</p> <p>23 Q. Again, I don't want to put too fine a 24 point on this, but this is an incredibly important</p>

<p>257</p> <p>1 point. You state that her infective endocarditis 2 could have been identified in time to save her life. 3 Are you saying could have been identified to a 4 reasonable degree of medical certainty, more likely 5 than not?</p> <p>6 MR. MCFADDEN: Objection.</p> <p>7 <b>A. I think it's tough for me to say that 8 with complete confidence, though again, I think -- I 9 would bet on it that I think more likely than not, 10 yeah. Look. If a patient has infective 11 endocarditis, they're going to have symptoms that if 12 you're monitoring, you're going to pick up on.</b></p> <p>13 <b>If a patient has infective endocarditis 14 and you can get earlier treatment, I don't know that 15 I can say it's more likely than not they're not 16 going to die, but I'd say more likely than not, 17 they're going to have significantly improved 18 outcomes. That I feel confident saying. I think 19 that my report -- we might disagree, but I think my 20 report appropriately captures that.</b></p> <p>21 Q. But you're not saying more likely than 22 not, she would have -- Madelyn Linsenmeir would have 23 survived if she had received regular monitoring of 24 her alcohol withdrawal protocol after her intake at</p>	<p>259</p> <p>1 <b>A. Yes. I would stand by that.</b> 2 Q. So when is that? When did she become 3 critically ill? 4 <b>A. Certainly at or before taken by EMS, and 5 certainly after the day she came into the WCC.</b> 6 Q. Okay. What is your basis for saying -- 7 what do you mean when you say critically ill? What 8 does that mean? 9 <b>A. Having unstable vital signs is really I 10 think -- they're called vital signs for that reason. 11 I would say one of the biggest things is unstable 12 vital signs.</b> 13 Q. Do you have any facts, other than the 14 swollen knee, to indicate how long -- well, do you 15 have any facts to indicate how long Madelyn 16 Linsenmeir had been suffering from infective 17 endocarditis as of the moment that she walked into 18 the WCC? 19 MR. MCFADDEN: Tom, do you mean how 20 long before the WCC she had endocarditis? 21 MR. DAY: Right. 22 Q. Do you have any facts, are you aware of 23 any facts to indicate how long she had been 24 suffering from infective endocarditis prior to</p>
<p>258</p> <p>1 the WCC? 2 MR. MCFADDEN: Objection.</p> <p>3 <b>A. It's tough for me to say that. I would 4 lean toward, but I would defer to an infectious 5 disease expert I guess. I think more likely than 6 not, her outcome would have been dramatically 7 improved. That I can say with unwavering 8 confidence. I hesitate because you can never say 9 that this person is going to live and this person is 10 not. It makes for very challenging critical care 11 conversations.</b></p> <p>12 <b>I did not see what she looked like. I was 13 not there in the hospital. Frankly, I didn't see 14 her in corrections or have any data of how sick she 15 was while she was at the WCC because there was no 16 vital signs, because there was no physician exam. 17 So that is the barrier for me being able to say more 18 likely than not she would survive. There's no 19 evidence for me to understand how critically ill she 20 was during the somewhat black box period that she 21 was at the WCC.</b></p> <p>22 Q. Okay. But before, earlier you told me 23 that she could have been treated at the WCC before 24 she became critically ill, didn't you?</p>	<p>260</p> <p>1 walking into the WCC? 2 <b>A. If I recall, there was some text messages 3 before going to the WCC that she feeling ill. But 4 honestly, I went through the records to identify how 5 the continued monitoring for alcohol withdrawal -- 6 how her alcohol withdrawal treatment aligned to the 7 standards of care, and if it aligned to the 8 standards of care that an underlying disease process 9 could be identified. That's what's in my medical 10 report.</b> 11 Q. Okay. And how long prior to going into 12 the WCC were those text messages that indicated that 13 she was feeling ill? 14 <b>A. I don't recall.</b> 15 Q. Okay. So at some point prior to going to 16 the WCC, you know that Madelyn Linsenmeir was 17 sending texts indicating that she was feeling ill, 18 correct? 19 <b>A. That's right.</b> 20 Q. But in drawing this opinion, in coming to 21 this opinion in the final paragraph of page 12, you 22 had no idea how long before coming into the WCC 23 Madelyn Linsenmeir had been sending text messages 24 saying she was feeling ill?</p>

<p>261</p> <p>1 MR. MCFADDEN: Objection.</p> <p>2 <b>A. I think that's right that I don't know</b></p> <p>3 <b>when her symptoms of infective endocarditis first</b></p> <p>4 <b>started. I think earlier treatment would be better.</b></p> <p>5 <b>Treatment before critically ill is going to be much</b></p> <p>6 <b>better than when she's critically ill.</b></p> <p>7 Q. So how long the infective endocarditis</p> <p>8 had been in her system makes a big difference as to</p> <p>9 her chances of survival, correct?</p> <p>10 MR. MCFADDEN: Objection.</p> <p>11 <b>A. I think that that is not necessarily true</b></p> <p>12 <b>in all cases. I think treatment before critical</b></p> <p>13 <b>illness is always important for improved morality</b></p> <p>14 <b>outcomes. There are some infective endocarditises</b></p> <p>15 <b>that are more subacute. Yeah, I would leave it at</b></p> <p>16 <b>that.</b></p> <p>17 Q. What kind of infective endocarditis did</p> <p>18 she have?</p> <p>19 <b>A. I don't know the kind of infective</b></p> <p>20 <b>endocarditis that she had in that I did not review</b></p> <p>21 <b>the records looking for information about infective</b></p> <p>22 <b>endocarditis, but was specifically focused on the</b></p> <p>23 <b>alcohol withdrawal protocol, and how monitoring</b></p> <p>24 <b>especially could have identified an underlying</b></p>	<p>263</p> <p>1 paragraph on page 12, you didn't know what kind of</p> <p>2 infective endocarditis Madelyn had, correct?</p> <p>3 MR. MCFADDEN: Objection.</p> <p>4 <b>A. That is correct.</b></p> <p>5 Q. And when you wrote this final paragraph</p> <p>6 on page 12, you hadn't reviewed her hospital records</p> <p>7 to see if there's any indication there as to how far</p> <p>8 her infective endocarditis had progressed when she</p> <p>9 came to the hospital, correct?</p> <p>10 MR. MCFADDEN: Objection.</p> <p>11 <b>A. No. I had briefly reviewed the hospital</b></p> <p>12 <b>records and the ID note about the infective</b></p> <p>13 <b>endocarditis. I don't recall details about the</b></p> <p>14 <b>infective endocarditis as that was not the core</b></p> <p>15 <b>parts of the report.</b></p> <p>16 Q. But so whatever your review of those</p> <p>17 hospital records was, you don't remember any facts</p> <p>18 to indicate how far her infective endocarditis had</p> <p>19 progressed by the time she got to the hospital,</p> <p>20 correct?</p> <p>21 MR. MCFADDEN: Objection.</p> <p>22 <b>A. In my review of the medical records, I</b></p> <p>23 <b>would say it was very clear she was very critically</b></p> <p>24 <b>ill from infective endocarditis.</b></p>
<p>262</p> <p>1 <b>pathology, including something like infective</b></p> <p>2 <b>endocarditis.</b></p> <p>3 Q. And when you drafted your opinion, you</p> <p>4 didn't know what kind of infective endocarditis she</p> <p>5 had, right?</p> <p>6 MR. MCFADDEN: Objection.</p> <p>7 <b>A. When I drafted my opinion, the opinion is</b></p> <p>8 <b>really identifying any other severe pathology. It</b></p> <p>9 <b>didn't have to be infective endocarditis. It could</b></p> <p>10 <b>have been appendicitis. It could have been sepsis</b></p> <p>11 <b>from a urinary tract infection.</b></p> <p>12 <b>The ultimate point in the continuing</b></p> <p>13 <b>monitoring is you would also certainly see abnormal</b></p> <p>14 <b>vital signs or other clinical changes in someone</b></p> <p>15 <b>that has a serious underlying pathology. Madelyn</b></p> <p>16 <b>did have a serious underlying pathology, and the</b></p> <p>17 <b>likelihood of it being caught is zero if you don't</b></p> <p>18 <b>do any continued monitoring, and would have been</b></p> <p>19 <b>much higher had there been continued monitoring</b></p> <p>20 <b>through the alcohol withdrawal protocol.</b></p> <p>21 Q. Okay. But that's not an answer to my</p> <p>22 question. I apologize if I'm taking you past 5:00,</p> <p>23 but that's a great reason why right there. My</p> <p>24 question was simply that when you wrote this final</p>	<p>264</p> <p>1 Q. Did you review her autopsy?</p> <p>2 <b>A. I believe I reviewed the autopsy because</b></p> <p>3 <b>I do remember the septic emboli into the knee as</b></p> <p>4 <b>part of the autopsy.</b></p> <p>5 Q. But whatever your review of the autopsy</p> <p>6 was, it didn't indicate to you what kind of</p> <p>7 infective endocarditis she had?</p> <p>8 <b>A. Is there a specific question? Are you</b></p> <p>9 <b>asking me about the organism that caused infective</b></p> <p>10 <b>endocarditis, the valve involvement?</b></p> <p>11 Q. What are the different types of infective</p> <p>12 endocarditis?</p> <p>13 <b>A. I mean, there's different valves that can</b></p> <p>14 <b>be involved. You can have mitral valve</b></p> <p>15 <b>endocarditis. You can have tricuspid valve</b></p> <p>16 <b>endocarditis. You can have different pathogens and</b></p> <p>17 <b>bacteria that cause endocarditis. You can have</b></p> <p>18 <b>complications of endocarditis; for example, septic</b></p> <p>19 <b>emboli.</b></p> <p>20 Q. Okay. But for instance, with regard to</p> <p>21 the valves, however detailed your review of the</p> <p>22 autopsy was, you didn't learn or at least you don't</p> <p>23 know now what valves were involved, correct?</p> <p>24 <b>A. That's correct. I was not, frankly,</b></p>

<p style="text-align: right;">265</p> <p>1 <b>paying close attention to that because that was not</b>    2 <b>the expert opinion that was being asked of me.</b></p> <p>3 Q. Okay. You mentioned text messages. What    4 do you remember being said in those text messages?</p> <p>5 A. <b>I don't recall exactly. I think it was</b>    6 <b>feeling sick, maybe wanting to go to the hospital.</b></p> <p>7 A <b>text with the mom, I believe saying, "I need to go</b>    8 <b>to the hospital."</b></p> <p>9 Q. And Madelyn's account of how she was    10 feeling, could that be an indicator of how far her    11 infective endocarditis had progressed?</p> <p>12 A. <b>I would not be able to identify the</b>    13 <b>severity of infective endocarditis by a text</b>    14 <b>message, no.</b></p> <p>15 Q. And in the case of these text messages,    16 you don't know even when they were sent in relation    17 to when she got to the WCC, correct?</p> <p>18 MR. MCFADDEN: Objection.</p> <p>19 A. <b>I don't recall when they were sent.</b></p> <p>20 Q. Okay. Is one of the purposes of an    21 alcohol withdrawal protocol to identify infective    22 endocarditis?</p> <p>23 A. <b>One of the purposes of an alcohol</b>    24 <b>withdrawal monitoring protocol would be to ensure</b></p>	<p style="text-align: right;">267</p> <p>1 <b>reason for prescribing Benzodiazepines, including</b>    2 <b>Librium, yes.</b></p> <p>3 Q. I just want to confirm a couple other    4 things that were in the DOJ report, if you still    5 have that pulled up.</p> <p>6 A. <b>Sure.</b></p> <p>7 Q. So on page nine, the report reads in    8 part, "Housing individuals at risk for or    9 experiencing withdrawal in a dedicated unit or units    10 has several advantages, such as improved monitoring    11 and care (due to presence of staff with a focused    12 mission) efficiency of operations, (e.g. health care    13 staff can make rounds more quickly) and a lower risk    14 of diversion of treatment medications into the    15 general jail population." Do you see that, page    16 nine?</p> <p>17 A. <b>Yes.</b></p> <p>18 Q. Do you agree with that statement?</p> <p>19 A. <b>Yeah, to an extent, yes.</b></p> <p>20 Q. On page 30 there was some    21 recommendations. One of the recommendations, A24    22 reads, "Benzodiazepines are the preferred agent for    23 treating alcohol withdrawal." Do you agree with    24 that statement?</p>
<p style="text-align: right;">266</p> <p>1 <b>that the alcohol withdrawal is getting better,</b>    2 <b>because if it's not, you would want to make sure</b>    3 <b>you're not missing a different diagnosis that might</b>    4 <b>be a severe disease process, not necessarily</b>    5 <b>infective endocarditis.</b></p> <p>6 Q. Does Librium address the risk of delirium    7 tremens?</p> <p>8 MR. MCFADDEN: Objection.</p> <p>9 A. <b>Librium can help prevent delirium</b>    10 <b>tremens, yes.</b></p> <p>11 Q. Does Librium address the risk of    12 seizures?</p> <p>13 A. <b>Librium can help prevent specifically</b>    14 <b>alcohol related seizures.</b></p> <p>15 Q. And does Librium address the risk of    16 death from alcohol withdrawal?</p> <p>17 A. <b>Librium can reduce the risk of death from</b>    18 <b>alcohol withdrawal.</b></p> <p>19 Q. In fact, addressing those three risks,    20 serious risks of alcohol withdrawal, are the major    21 reason to prescribe Librium as part of an alcohol    22 withdrawal program, correct?</p> <p>23 A. <b>Yes, I would say the prevention of</b>    24 <b>seizures, delirium tremens and death is a major</b></p>	<p style="text-align: right;">268</p> <p>1 <b>A. Yes, I agree with that statement.</b></p> <p>2 Q. A26 says, "Patients with CIWA-Ar scores    3 of less than 10 and who are at minimal risk of    4 developing severe or complicated alcohol withdrawal    5 may be provided supportive care alone and    6 monitored." Do you agree with that statement?</p> <p>7 A. <b>Yes, I would agree with that statement.</b></p> <p>8 Q. Under that it reads, "It is also    9 appropriate to use Benzodiazepines prophylactically    10 for alcohol withdrawal." Do you agree with that    11 statement?</p> <p>12 A. <b>Yes, I agree with that statement.</b></p> <p>13 Q. Then on A33 it reads, "Benzodiazepines    14 used to treat alcohol withdrawal should be tapered    15 and discontinued following treatment." Do you agree    16 with that statement?</p> <p>17 A. <b>Yes, I agree with that statement.</b></p> <p>18 Q. Have you ever treated anyone for alcohol    19 withdrawal in an ambulatory setting?</p> <p>20 A. <b>I have.</b></p> <p>21 Q. And in that situation, what do you do to    22 monitor that patient?</p> <p>23 A. <b>One, we would only do it in very specific</b>    24 <b>circumstances; someone who is very, very low risk,</b></p>